

STATE OF NEW YORK

6766--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 8, 2023

Introduced by M. of A. PAULIN, SEPTIMO, McDONALD -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to setting reimbursement rates for essential safety net hospitals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 2807-c of the public health law is amended by
2 adding a new subdivision 34-a to read as follows:

3 34-a. Health equity stabilization and transformation act. (a) For the
4 purposes of this subdivision, "essential safety net hospital" shall
5 mean:

6 (i) Any hospital eligible for participation in the directed payment
7 template (DPT) preprint submitted by the state to the Centers for Medi-
8 caid and Medicare Services for fiscal year two thousand twenty-three;

9 (ii) Any non-state public hospital operated by a county, municipality
10 or public benefit corporation; or

11 (iii) is an acute children's hospital licensed by the department
12 primarily for the provision of pediatric and neonatal services for which
13 a discrete institutional cost report was filed for the past three
14 calendar years, and which has medicaid discharges in excess of fifty
15 percent of it's total discharges.

16 (iv) Any voluntary hospital certified under this article that is a
17 general hospital, which, in any of the previous three calendar years,
18 has met the following criteria:

19 (A) at least thirty-six percent of inpatient volumes are associated
20 with Medicaid and uninsured individuals;

21 (B) at least thirty-six percent of outpatient volumes are associated
22 with Medicaid and uninsured individuals; and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (C) no more than twenty percent of inpatient volumes are associated
2 with commercially insured individuals.

3 (b) For purposes of this subdivision, "essential safety net hospital"
4 shall not include hospitals that are (i) public hospitals operated by
5 the state; (ii) federally designated as a critical access hospital;
6 (iii) federally designated as a sole community hospital; or (iv) a
7 specialty hospital.

8 (c) For purposes of this subdivision, "health care services" shall
9 include, but is not limited to, acute inpatient discharges, inpatient
10 psychiatric days, ambulatory surgery visits, emergency room visits, and
11 outpatient clinic services.

12 (d) For essential safety net hospitals that qualify pursuant to para-
13 graph (a) of this subdivision, the commissioner shall, subject to feder-
14 al approval, require inpatient hospital rates and hospital outpatient
15 rates paid by the medical assistance program for services provided to
16 patients enrolled in Medicaid managed care to reimburse the entire class
17 of essential safety net hospitals in each geographic region at no less
18 than regional average commercial rates for health care services provided
19 by all hospitals in the same geographic region, as reported in a bench-
20 marking database maintained by a nonprofit organization specified by the
21 commissioner. Such nonprofit organization shall not be affiliated with
22 an insurer, a corporation subject to article forty-three of the insur-
23 ance law, a municipal cooperative health benefit plan certified pursuant
24 to article forty-seven of the insurance law, a health maintenance organ-
25 ization certified pursuant to article forty-four of this chapter, or a
26 provider licensed under this chapter. For purposes of this paragraph:

27 (i) The commissioner shall establish geographic regions within the
28 state for establishing the regional average commercial rate. One region
29 shall consist of the average commercial rate for services provided in
30 the following counties: Bronx, Kings, New York, Queens, and Richmond.

31 (ii) The regional average commercial rate for health care services
32 shall reflect the most recent twelve-month period in which data on
33 commercial rates is available, and shall be updated no less frequently
34 than every two years, provided that the average commercial rate shall be
35 trended forward to adjust for inflation on an annual basis between such
36 updates. Such adjustment shall be made by a federally recognized metric
37 as determined by the commissioner.

38 (iii) The commissioner shall ensure that all essential safety net
39 hospitals shall receive the rates defined in this paragraph. The commis-
40 sioner shall not exclude any qualifying essential safety net hospitals,
41 including public hospitals.

42 (e) Managed care organizations shall provide written certification to
43 the commissioner on a quarterly basis that all payments to essential
44 safety net hospitals are made in compliance with this subdivision and in
45 accordance with section three thousand two hundred twenty-four-a of the
46 insurance law.

47 (f) Any hospital qualifying under this subdivision shall annually
48 report to the department demonstrating that it meets the criteria as an
49 essential safety net hospital. The report shall also include information
50 to demonstrate how increased reimbursement has been utilized to improve
51 patient access, patient quality and patient experience. Such report
52 shall also include specific efforts made to improve maternal health.

53 (g) The commissioner shall make any quality data reported by essential
54 safety net hospitals pursuant to paragraph (f) of this subdivision
55 publicly available in a manner that is useful for patients to make qual-

1 ity determinations. Such information shall be posted on the depart-
2 ment's website.

3 (h) No later than September first, two thousand twenty-three, the
4 commissioner shall provide the governor, the temporary president of the
5 senate and the speaker of the assembly with a report on the feasibility
6 of obtaining a state plan amendment to modify the Medicaid fee-for-ser-
7 vice rates for health care services in the manner prescribed in this
8 subdivision. The report shall also be posted on the department's
9 website.

10 § 2. This act shall take effect July 1, 2023. Effective immediately
11 the commissioner of health shall make such rules and regulations, and
12 seek any federal approvals necessary for the implementation of this act
13 on its effective date.